

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTSFILED  
IN CLERKS OFFICE

2004 JUN -1 P 1:48

PALL CORPORATION,

Plaintiff,

v.

MYKROLIS CORPORATION,

Defendant.

Civil Action No. 04-CV-10887-GAO

U.S. DISTRICT COURT  
DISTRICT OF MASS.**MOTION TO DISMISS THE AMENDED COMPLAINT**

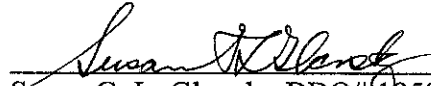
Defendant Mykrolis Corporation ("Mykrolis") respectfully moves to dismiss the Amended Complaint of Plaintiff Pall Corporation ("Pall").

Even as amended, this declaratory judgment action (the "Second Action") involves the same parties, patents and products as a previously filed action also before this Court, captioned Mykrolis Corp. v. Pall Corp., Civil Action No. 03 CV 10392 GAO (the "First Action"). As in the Counterclaim filed by Pall in the First Action, Pall seeks in this action a declaration that Mykrolis patents U.S. Patent Nos. 6,068,770 and 6,378,907 B1 (collectively, the "patents-in-suit") are invalid. Also, as in the First Action, Pall seeks a declaration that its fluid separation devices--in particular recently renamed "EZD-3" products--do not infringe these patents. These EZD-3 devices have already been the subject of several submissions in the First Action and are encompassed by the allegations in the Complaint and Counterclaim in the First Action. Several of these recently-renamed "EZD-3" products are identical to products previously sold under the "EZD-2" designation, which are expressly covered by the Court's Order in the First Action. As such, the Second Action serves no useful purpose. Instead, it represents an abuse of the purposes of the Declaratory Judgment Act, wastes judicial resources, and is duplicative of the First Action.

In further support of its motion, Mykrolis relies on its Memorandum of Law submitted herewith.

MYKROLIS CORPORATION

By its attorneys,



Susan G. L. Glovsky BBO# 195880

John L. DuPré BBO# 549659

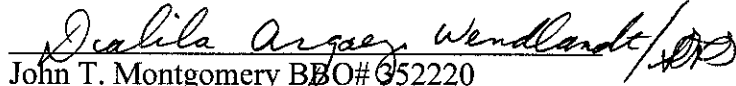
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June 1, 2004

**Certificate of Conference**

Pursuant to Local Rule 7.1, I hereby certify that I conferred with Plaintiff's counsel in an attempt in good faith to resolve or narrow the issues presented by this motion.

  
\_\_\_\_\_  
Susan G. L. Glovsky

**Certificate of Service**

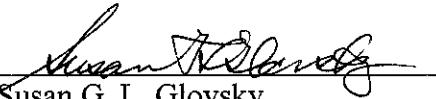
I hereby certify that on June 1, 2004, a true and correct copy of the Motion to Dismiss the Amended Complaint was served upon counsel for the plaintiff Pall Corporation in the manner indicated below:

*Via Hand*

Gary R. Greenberg  
Greenberg Traurig LLP  
One International Place, 20th Floor  
Boston, MA 02110

*Via Facsimile with Confirmation via First Class Mail*

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\_\_\_\_\_  
Susan G. L. Glovsky